

# 2008 State Damage Prevention Program Grants Progress Report

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## 2008 State Damage Prevention Program Grants Progress Report Funding Opportunity Number: DTPH56-08-SN-0001 CFDA Number: 20.720

**Award Number:** DTPH56-08-G-PHPS02  
**Project Title:** Georgia Utility Facility Protection  
**Date Submitted:** 11/30/2008  
**Submitted by:** Danny McGriff & Gary Mason

### Specific Objective(s) of the Agreement

*Under this grant award Georgia Public Service Commission will add up to three (3) additional positions, one motor vehicle, and equipment to enhance enforcement of the Georgia Utility Facility Protection Act (GUFPA). This would provide one (1) field investigator position with a priority for investigating high profile damages in the Atlanta metro area and two (2) positions performing assigned investigations to concentrate on reported violations to the Commission estimated in excess of 7,000 annually.*

### Workscope

- *Element (3):* A process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs.
- *Element (6):* A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues.
- *Element (7):* Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education and the use of civil penalties for violations assessable by the appropriate State authority.
- *Element (9):* A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews.

### Accomplishments for this period (Item 1 under Agreement Section 9.01 Progress Report: "A comparison of actual accomplishments to the objectives established for the period.")

*As stated in the Objectives, the Commissions desire was to hire 3 additional enforcement persons. This request was included in the Public Service Commission's 2008 legislative session however due to the economic times and a state budget constraint, the request was denied. The Commission did approve the hiring of one field investigator effective 6/1/08 with the funds secured from PHMSA in the 2008 State Damage Prevention Grant. This person has been equipped with an automobile, communication devices, and computer. The person hired came with a 33 year background with AT&T, the last 7 years of that employment was spent in the damage prevention program administered by the phone company. The experience and work history of the new investigator made him an immediate affect with enforcing the dig law in Georgia.*

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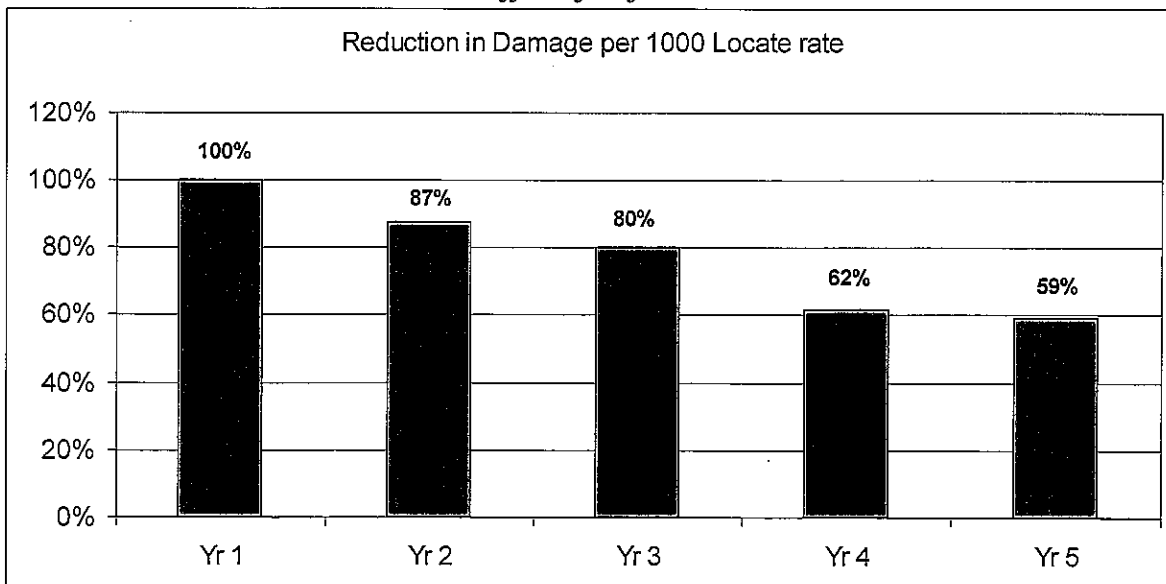
**Quantifiable Metrics/Measures of Effectiveness (Item 2 under Agreement Section 9.01 Project Report: "Where the output of the project can be quantified, a computation of the cost per unit of output.")**

*The Georgia Public Service Commission maintains an online database for reporting probable violations of the Georgia Utility Facility Protection Act (GUFPA). Commission Rules further require that any probable violation as a result of violating the GUFPA must be investigated by the facility owner/operator and the results of that investigation reported thru this database. In addition to this reporting responsibility, the GUFPA itself requires that all damages be reported to the Utilities Protection Center (UPC). Now comes DIRT with a third reporting function. The PSC is currently working with the UPC in Georgia to develop one reporting function to satisfy all three of these reporting requirements thru one report. The GUFPA is an excellent damage prevention tool. The weak side of the Act is enforcement. Current staffing allows for only addressing about 1/3 of the probable violations filed with the Commission. Grant monies would be used to bolster the enforcement process.*

*Since hiring one position 6/1/08, the new investigative person has initiated 226 investigations of reported violations of the dig law, recommending \$386,500 in penalties. Of those investigations initiated, 93 have been brought to closure resulting in the collection of \$15,500 in penalties and mitigation of \$255,000 in penalties for respondents to attend training on the requirements of the Georgia Utility Facility Protection Act. In addition to the investigative work accomplished, the new investigative person has presented 11 public presentations addressing 375 persons on the requirements of the GUFPA. All of the accomplishments listed here obviously would not have taken place had the Georgia Public Service Commission not had the ability to hire this additional investigative person.*

<b>Damages/Rates</b>	<b>1999</b>	<b>2008</b>	<b>(projected)</b>
<b>Damaged Gas Lines</b>	<b>6,968</b>	<b>2,809</b>	<b>-60%!</b>
<b>Work Volumes</b>	<b>730,619</b>	<b>660,629</b>	<b>-10%</b>
<b>Damage Rate per 1000 Locates</b>			
<b>Excavators</b>	<b>7.74</b>	<b>4.27</b>	<b>-39 %</b>
<b>Locators</b>	<b>1.80</b>	<b>0.47</b>	<b>-74 %!</b>
<b>Total</b>	<b>9.54</b>	<b>4.74</b>	<b>-50 %!</b>

## *The Effect of Enforcement*



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**Issues, Problems or Challenges (Item 3 under Agreement Section 9.01 Project Report: "The reasons for slippage if established objectives were not met. ")**

*There are no issues, problems or challenges to report at this time.*

**Other pertinent information including, when appropriate, actions taken to address the recommendations PHMSA provided in correspondence dated [Different for each] (Item 4 under Agreement Section 9.01).**

## **RESPONSE TO QUESTION ON PHMSA DAMAGE PREVENTION GRANT**

1. Solicitation, Section 6.01, Criteria (6) states, "A commitment to quality controls in timing, personnel, and costs for deliverables offered in exchange for the grant." We would like to see more detail on your commitment to this criterion.

*3b(1) As a result of this grant and as previously stated above the GPSC hired one person on 6/1/08, the new investigative person has initiated 226 investigations of reported violations of the dig law, recommending \$386,500 in penalties. Of those investigations initiated, 93 have been brought to closure resulting in the collection of \$15,500 in penalties and mitigation of \$255,000 in penalties for respondents to attend training on the requirements of the Georgia Utility Facility Protection Act. In addition to the investigative work accomplished, the new investigative person has presented 11 public presentations addressing 375 persons on the requirements of the GUFPA. All of the accomplishments listed here obviously would not have taken place had the Georgia Public Service Commission not had the ability to hire this additional investigative person.*

2. As mentioned in the positive comments, while the board appears to have the framework of a good, stakeholder represented board, the review team feels it can be improved. First, there appears to be lack of representation of locators on the board. Also it is recommended that you find a way to have all stakeholders more directly involved or find a way to provide comfort level for fair enforcement provided to all. For instance, some of the members have voting authority and some do not. We realize this is tied to how much the member companies invest financially to support their level of involvement and the support of different initiatives. However, consider the benefit of giving all members voting authority of some kind. Perhaps the paying members vote on all issues; the non-paying members would be able to vote on the major issues affecting all stakeholders. But they would not be able to vote on issues related to costs.

*3b(2) The enforcement responsibility in Georgia is assigned by Georgia Code to the Georgia Public Service Commission. The UPC has no enforcement authority in Georgia. The UPC simply serves as a communication conduit between the excavating community and facility owners to facilitate the marking of facilities in areas of proposed excavation so that damage to buried*

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utilities may be avoided. An additional enforcement tool included in the GUFPA is an Advisory Committee charged with assisting the Commission in the administration of the GUFPA by giving those who have been found guilty under the GUFPA and feel that Commission Staff has erred in its assessment and opportunity to air its disagreement before an impartial board. There are 14 members on the committee, appointed by the governor, representing all phases of the utility industry from owner/operators to excavators to locators to cities and counties to water/sewer authorities to the PSC to the State DOT to the UPC. A broad wealth of knowledge of the utility industry is represented by this committee. Anyone charged with a violation of the GUFPA and found culpable by Commission Staff may ask for a review of their case before this committee who may then make a separate recommendation to the Commission if they disagree with staff recommendation. As to the representation of locators on the UPC board, all members of the UPC board own or operate a buried utility in the state and as such are required by the GUFPA to be a member of the UPC. The GUFPA further requires that those owners or operators locate their facilities making all members of the UPC locators as well. True that some of those owners or operators use contract locators to meet that locating requirement. What purpose would be served to have a contract locator on the board when they serve at the direction of that owner/operator they are contracted to and who controls their destiny?

3. Please provide more clarity between recommended vs. collected penalties. There appears to be good authority in place, but as written in the proposal the description of the difference between the two and how they were leveraged were not clearly defined.

*3b(3) The GUFPA provides for a maximum penalty of \$10,000 for each and every violation of the Act. The GUFPA further provides that the Commission may recommend education in lieu of penalties as a means of enforcing the Act. The Commission has used recommended penalties to drive violators to education. The minimum recommended penalty under the GUFPA is \$1500 while training can be accomplished for between \$300 and \$400. The Commission looks upon violators of the Act, especially first time violators, as an educational opportunity. In 2007, the Commission assessed \$2.5 million dollars for violations of the Act while only \$620,000 was collected and forwarded to the General Fund of Georgia. The bulk of the uncollected amount was mitigated for those attending training and of course a small portion is currently in collections.*

4. The State Department of Transportation, Railroad and Agriculture communities are exempt from being a member of the state One-call Center and not required to call before digging. The review team feels these groups should not be exempt.

*3b(4) The State Dept of Transportation is not exempted from the GUFPA. Traffic control devices and traffic control systems are not defined as utility facilities by the GUFPA. This is true whether the facilities are operated by state DOT, city or county government. Also, if replacing existing structures, road signage, guard rail, etc., in the same hole to the same depth, a locate request is not required. Any other activities requiring mechanized excavation by DOT are subject to the requirements of the GUFPA.*

*Farming activities are not defined in the GUFPA as mechanized excavation. In looking at the damage history in Georgia, damages involving farming activities are extremely rare and do not warrant the expenditure of resources that it would take to get passage thru the legislature. Farming activities are not viewed as a risk and the legislature is certainly not going to expend its resources on an issue that is perceived as a non-issue. Railroads are not exempt from the*

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*GUFPA. Only those routine activities carried out in the maintenance of their right of way are not defined as excavating and therefore do not require a dig ticket. Only those who own or operate buried utilities by definition of the GUFPA are required to be members of the GUFPA.*

### **Mid-term Financial Status Report**

Salary	24,000.00
FICA	1,694.82
Retirement	2,498.40
Health	5,345.72
Total Salary	33,538.94

Vehicle exp	1,064.62
Supplies	48.89
Equipment not on Inventory	1,663.96
Insurance bonding	44.86
Vehicle purchase	17,271.37
Equipment/computer Equip	3,208.04
Computer charge	231.37
Communication	558.95
Rents	\$1,726.00

Totals For this period	59,357.00
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### **Plans for next period (remainder of grant)**

*There is no planned deviation from the stated purpose of the grant. We intend that our new investigator should stay on track and continue turning out investigations into reported violations of the dig law. These actions would act in furtherance of damage prevention to buried utilities in Georgia.*

### **Requests of the AOTR and/or PHMSA**

*"No actions requested at this time."*